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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,660	08/16/2001	Shin Iima	450100-03393	3348
20999	7590	02/09/2006	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			WU, RUTAO	
			ART UNIT	PAPER NUMBER
			3639	

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/931,660	Applicant(s) IIMA, SHIN	
	Examiner Rutao Wu	Art Unit 3639	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of claims

1. In response filed on December 22, 2005, the applicant amended claims 1-4, 7 and 8. No claims are cancelled.

Response to Arguments

2. Applicant's arguments filed December 22, 2005 have been fully considered but they are not persuasive.

With regards to claims 1-3, the applicant amended claims to include the limitation of *"judgment means for forming a judgment as to which of at least two parties initiated an action for transferring data through said network;"* and *"multiplexing means for multiplexing a unit cost per unit data and a first magnitude in said data transferred through said network when said judgment formed by said judgment means judges that the action was initiated by a first party and for multiplexing a unit cost per unit data and a second magnitude in said data transferred through said network when said judgment formed by said judgment means judges that the action was initiated by a second party..."* The applicant submits that Ferguson et al does not teach the above limitations.

The examiner respectfully disagrees. Ferguson et al disclose in the invention that third party content providers can be levied fees for submitting advertisements or for executing a transaction with a user, (col 4: lines 58-60) and the user initiates an electronic transaction to download, price, purchase, rent, reserve, etc. (col 8: lines 63-

65) It is clearly shown here that Ferguson et al's invention can distinguishing which of the two parties (content provider and user) initiated the service request.

Ferguson et al teach "*multiplexing means for multiplexing a unit cost per unit data*" by disclosing the ability to set fees to be paid by the user for an amount of data accessed; (col 3: lines 62-63) The fees can depend on the size of a document. (col 30: lines 1-2) Ferguson et al teaches "*a first magnitude in said data transferred through said network when said judgment formed by said judgment means judges that the action was initiated by a first party*" by disclosing metering of user usage patterns for the online service, this can include the number of users who access the service, the duration of each user's connection time, the number of times that a certain part of the service is accessed... This data can be used to levy fees for users, advertisers, of information providers, or to tune the service itself. (col 12: lines 15-23)

Ferguson et al also teach "*multiplexing a unit cost per unit data and a second magnitude in said data transferred through said network when said judgment formed by said judgment means judges that the action was initiated by a second party...*" by disclosing the above information alone with levying a fixed fee on a content provider whenever a user views or downloads that provider's textual or graphic information from the online service. (col 31: lines 2-5)

From the above response, claims 2 and 3 stand rejected.

With regards to claim 4, the applicant amended the claim to include the limitation of "*...judgment means for forming a judgment as to which of at least two parties initiated*

an action for transferring data through said network; and accounting means for determining the party determined by said judgment means to be side initiating an action for transferring data through said network to settle accounting for said data transferred through said network." The applicant submits that Ferguson et al does not teach those limitations.

The examiner respectfully disagrees. Ferguson et al disclose in the invention that third party content providers can be levied fees for submitting advertisements or for executing a transaction with a user, (col 4: lines 58-60) and the user initiates an electronic transaction to download, price, purchase, rent, reserve, etc. (col 8: lines 63-65) and the ability to set fees to be paid by the user for an amount of data accessed; (col 3: lines 62-63) The fees can depend on the size of a document. (col 30: lines 1-2) It is clearly shown here that Ferguson et al's invention can distinguishing which of the two parties (content provider and user) initiated the service request and charge the proper party for the data transfer transaction.

From the above response, claims 7 and 8 stand rejected.

3. The Examiner believes Ferguson et al meet all of the limitations presented in the arguments files by the applicant as noted in this office action. Accordingly, claims 1-8 stand rejected from the previous office action, herein provided below for reference, also incorporating the amendments filed by the applicant.

Claim Rejections - 35 USC § 102

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4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat No. 5,819,092 to Ferguson et al.

Referring to claims 1-3:

An information-processing apparatus for transmitting data through a network, comprising:

judgment means for forming a judgment as to which of at least two parties initiated an action for transferring data through said network; (col 8: lines 63-67; col 9: lines 1-2; col 13: lines 58-60)

multiplexing means for multiplexing a unit cost per unit data in said data and a first magnitude in said data transferred through said network when said judgment formed by said judgment means judges that the action was initiated by a first party and for multiplexing a unit cost per unit data and a second magnitude in said data transferred through said network when said judgment formed by said judgment means judges that the action was initiated by a second party; and (col 4: lines 58-60, 64-67; col 30: lines 28-30, 61-62; col 31: lines 2-7, lines 33-43)

transmission means for transmitting said data multiplexed with said unit cost by said multiplexing means through said network. (col 4: lines 46-48; col 9: lines 5-9; col 11: lines 4-8)

the examiner is considering, based on the specifications portion of the applicant's application, that if data was transferred with a negative value, then initiating side would not be levied a charge or be paid an amount of fee; if data was transferred with a positive value, then the initiating side would be levied a charge and the non-initiating side would not be levied a charge or be paid an amount of money. A couple of examples are provided by Ferguson's patent to illustrate the concept. Users can be levied a fee for information viewed or downloaded and the provider can be paid a fee for users accessing their information. In this case, the users initiated the transferring with a positive value. A provider can be levied a fee for users viewing or downloading their information. In this case, the users initiated the transferring with a negative value.

Referring to claims 4, 7 and 8:

An accounting-processing apparatus for settling accounting for data exchange through a network, comprising:

judgment means for forming a judgment as to which of at least two parties initiated an action for transferring data through said network; (col 8: lines 63-67; col 9: lines 1-2; col 13: lines 58-60) and

accounting means for determining the party determined by said judgment means to be a side initiating an action for transferring data through said network to settle accounting for said data transferred through said network. (col 7: lines 29-31; col 9: lines 2-5; col 10: lines 13-14)

Referring to claim 5:

An accounting-processing apparatus according to claim 4, further comprising:

First acquisition means for acquiring an amount of data exchange through said network; and (col 3: lines 62-63; col 18: lines 36-37; col 30: lines 1-2, 42-43)

Second acquisition means for acquiring a unit price per unit data for data exchanged through said network, (col 3: lines 62-63; col 18: lines 36-37; col 30: lines 1-2, 42-43)

Wherein said accounting means computes a price of transferred data on the basis of an amount of data acquired by said first acquisition means and a unit price acquired by said second acquisition means. (col 3: lines 62-63; col 18: lines 36-37; col 30: lines 1-2, 42-43)

Referring to claim 6:

An accounting-processing apparatus according to claim 4 wherein said second acquisition means further acquires a sign of said unit price, and said accounting means drives said transmission side or said reception side determined to be a side not initiating an action for transferring data through said network to settle accounting in case said sign is negative. (col 4: lines 58-60, 64-67; col 30: lines 28-30, 61-62; col 31: lines 2-7, lines 33-43)

the examiner is considering, based on the specifications portion of the applicant's application, that if data was transferred with a negative value, then initiating side would not be levied a charge or be paid an amount of fee; if data was transferred with a positive value, then the initiating side would be levied a charge and the non-initiating side would not be levied a charge or be paid an amount of money. A couple of examples are provided by Ferguson's patent to illustrated the concept. Users can be

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levied a fee for information viewed or downloaded and the provider can be paid a fee for users accessing their information. In this case, the users initiated the transferring with a positive value. A provider can be levied a fee for users viewing or downloading their information. In this case, the users initiated the transferring with a negative value.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

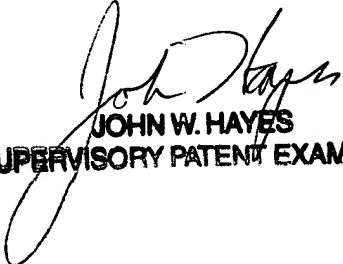
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rutao Wu whose telephone number is (571)272-3136. The examiner can normally be reached on Mon-Fri 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571)272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rw


JOHN W. HAYES
SUPERVISORY PATENT EXAMINER